

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	)	Group Art Unit: 1732
	)	
Charles A. Byrne	)	Examiner: Matthew J. Daniels
	)	
Serial No. 10/701,052	)	
	)	
Filed: November 3, 2003	)	Docket No. MAMMO-44436
	)	
For: IMPROVED METHOD FOR	)	
MANUFACTURING ANIMAL	)	
CHEW TOY	)	
_____	)	

RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF

Commissioner for Patents  
Via E-File

Gentlemen:

In response to the Notification of Non-Compliant Appeal Brief, mailed October 11, 2007, applicant submits herewith a substitute Status of Claims section, identifying all claims being appealed. Moreover, applicant submits a substitute Summary of Claimed Subject Matter section referencing more specifically independent claim 21.

### **III. STATUS OF CLAIMS**

Claims 1, 3-5 and 7-27 are rejected, all pending claims 1, 3-5 and 7-27 are on appeal.

Claims 2 and 6 have been canceled.

There are no claims which have been withdrawn, objected to, or allowed.

## **V. SUMMARY OF CLAIMED SUBJECT MATTER**

The present invention is directed to a method for manufacturing an animal chew toy. As recited in independent claim 1, first and second layers of rubber material are formed in a general shape and size of the animal chew toy (page 6 lines 10-11, 17, page 7 lines 22-24, page 8 lines 27-28).

A floss material comprising at least one mesh fabric sheet of synthetic fibers formed in the general shape and size of the animal chew toy is placed between the first and second layers of rubber material (page 6 lines 6-9, page 7 lines 1-3, page 7 lines 27-31, and as illustrated in FIGS. 1, 8, and 13).

The sheets of rubber and floss material are molded into the animal chew toy, wherein the molding step includes the steps of compressing the sheets of rubber and floss material between opposing mold members under pressure and heat (page 6 lines 17-22, page 8 lines 4-7, page 8 lines 24-26, and as illustrated in FIGS. 5, 9, 10, and 14-16).

Independent claims 14 and 21 have similar recitations as independent claim 1, described above. Moreover, independent claims 14 and 21 further recite that the first and second layers of rubber material are a tire rubber material. Furthermore, claims 4, 15, and independent claim 21 recite that the tire rubber material comprises natural or synthetic rubber mixed with carbon black (page 5 lines 26-27, page 7 lines 16-19).

In a particularly preferred embodiment, the animal chew toy is comprised of such tire rubber material as it has a tire configuration having a diameter of between six and

ten inches, without any embedded metal therein, as recited in claim 13. Moreover, the tire configuration includes an outer periphery having a tread design formed over at least a portion thereof, and spaced apart sidewalls extending inwardly from the outer periphery to define generally aligned central apertures, the periphery in the sidewalls having a generally U-shaped cross-section, as recited in claims 26 and 27. Support for these recitations is found on page 5 lines 21-22, page 6 lines 23-31, page 7 lines 6-8, and FIGS. 6, 7, and 22-24.

Dependent claims 7, 17 and 22 recite the step of attaching a rope to the animal chew toy (page 9 line 31 - page 10 line 7 and as illustrated in FIGS. 22, 24 and 25-27).

Claims 8, 18 and 23 recite the step of retaining an animal treat in a cavity of the animal chew toy (page 8 lines 16-21, page 10 lines 20-22, and as illustrated in FIGS. 28 and 29).

Claims 9, 19 and 24 recite the step of associating a buoyant insert (96, 98 and 108), such as a closed-cell foam, with the animal chew toy (page 7 line 10, page 9 lines 10-18, and page 10 lines 8-11).

As typical tire rubber has a unique and strong smell which might deter some dogs from using the chew toys created by the invention, a scent material may be added to the first and second layers of rubber, as recited in claims 12, 20 and 25, and as described on page 5 line 28 - page 6 line 2.

In light of the foregoing amendments to the Status of Claims and Summary of Claimed Subject Matter sections, applicant believes that the Appeal Brief is now compliant. If the Patent Appeals Specialist determines that this is not the case, he is invited to contact the undersigned.

Respectfully submitted,

KELLY LOWRY & KELLEY, LLP

/Scott W. Kelley, Reg. No. 30,762/

SCOTT W. KELLEY  
Registration No. 30,762

SWK:nh  
6320 Canoga Avenue, Suite 1650  
Woodland Hills, CA 91367  
(818) 347-7900